

REMARKS

Reconsideration and allowance in view of the following remarks is respectfully requested.

Claims 1-14 are pending in this application. Claims 1, 2, 4, 8, 11 and 12 have been amended to correct grammatical inconsistencies. Since the changes to the claims are merely formalistic in nature, the Applicant respectfully submits that the amendments should not be construed to be of a narrowing nature. Among other reasons, the Applicant further submits that the claims should be entitled to their broadest scope, either literally or under the doctrine of equivalents, because the amendments are not presented to overcome prior art asserted by the Examiner.

The Applicant is pleased to note that the Examiner indicated that claim 5 would be allowable if rewritten in independent form. The Applicant chooses not to amend claim 5 to present the subject matter of claim 5 in independent form. The Applicant, however, reserves the right to amend claim 5 in such a manner, if necessary at a future date. As discussed below, the Applicant believes that all of the claims are patentable over the prior art and, therefore, that the presentation of claim 5 in independent form is premature.

Finality of the Rejection

The Examiner indicated that the Office Action is Final. The Examiner stated that Applicant's Amendment necessitated the new grounds of rejection presented in the Final Office Action. The Applicant respectfully submits that the finality of the Office Action is premature and requests reconsideration of the finality of the rejection in the Office Action.

The Examiner rejected claims 1-4 and 6-9 under 35 U.S.C. § 103(a) as being unpatentable over Hentila et al. (U.S. Patent No. 6,044,259) in view of Raith (U.S. Patent No. 6,493,547). While stated in this manner, the Examiner also relied, in the discussion of the rejection, upon Boltz (U.S. Patent No. 6,131,024). According to the Examiner, "Hentila and Raith do not teach that the sending of the credit/charging information to the mobile station is a connectionless message." To find this teaching, the Examiner relied on Boltz, which was not relied upon in the Office Action dated September 2, 2003.

According to M.P.E.P. § 706.07, switching from one set of references to another by the examiner in rejecting, in successive actions, claims of substantially the same subject

matter, tends to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection. Since the Applicant did not substantively amend the limitation in claim 1 that the Examiner now requires Boltz to reject, the Applicant respectfully submits that claim 1 recites, at least with respect to this limitation, essentially the same subject matter. Accordingly, the Applicant respectfully submits that the Examiner's issuance of a Final Office Action was improper. Accordingly, the Applicant respectfully requests that the finality of the Office Action be withdrawn.

Claim Rejections – 35 USC § 103

Claims 1-4 and 6-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hentila et al. (U.S. Patent No. 6,044,259), hereinafter "Hentila," in view of Raith (U.S. Patent No. 6,493,547). The Applicant respectfully traverses this rejection for at least the following reasons.

First, the Applicant respectfully submits that the September 29, 1998 priority date of the present application (based on a priority claim filed in Finland) is earlier than the filing date of May 17, 1999 of Raith. The Examiner acknowledged in the Office Action Summary that the certified copy of the priority document has been received. Herewith, the Applicant submits a copy of an official English translation of the Finnish patent application from the Finnish Patent Office. Therefore, the Applicant respectfully submits that Raith may no longer be relied upon as prior art.

Second, the Examiner conceded that Hentila does not disclose sending the credit/charging information to the mobile station as a connectionless message upon the detection of the call termination. Since Raith may no longer be relied upon in combination with Hentila, and since Boltz does not cure the deficiencies of Hentila, the rejection is improper.

Boltz merely discusses the use of a connectionless message (USSD, SMS). Boltz fails to overcome the deficiencies noted above in Hentila. Specifically, Boltz does not disclose, teach or suggest, *inter alia*, "sending credit/charging information to the mobile station as a connectionless message upon the detection of the call termination," as recited in claim 1 or "in response to said detecting, send said credit/charging information to the mobile station as a connectionless message," as recited in claim 8. Consequently, neither Hentila nor Boltz, alone or in combination, disclose, teach or suggest the subject matter recited in claims

1 or 8. Therefore, the Applicant respectfully submits that claim 1 and claim 8, and claims 2-4, 6-7 and 9-10 which depend from either claim 1 or claim 8, are patentable. Thus, the Applicant respectfully requests that the rejection of claims 1-4 and 6-10 under § 103(a) be withdrawn.

Claims 10-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hentila modified and further in view of Laybourn et al. (U.S. Patent No. 6,480,710), hereinafter "Laybourn." The Applicant respectfully traverses this rejection for at least the following reasons.

Claims 10-14 depend directly or indirectly from either claim 1 or claim 8. Therefore, for at least the reasons provided above with respect to claim 1 and claim 8, the Applicant respectfully submits that claims 10-14 are patentable over the combination of Hentila and Boltz. Laybourn fails to overcome the deficiencies noted above in Hentila and Boltz because Laybourn merely describes a system for facilitating provisioning of pre-paid wireless services with tariff rates. The provider generates a message to modify the credit contents of the device's memory only after request by the subscriber to refresh the available credit (see col. 1, lines 55-68). The provider in Laybourn does not generate a connectionless message to modify the credit contents upon the detection of the call termination. Consequently, neither Hentila, Boltz, nor Laybourn, alone or in combination, disclose, teach or suggest the subject matter recited in claims 10-14.

Therefore, the Applicant respectfully submits that claims 10-14 are patentable. Thus, the Applicant respectfully requests that the rejection of claims 10-14 under § 103(a) be withdrawn.

CONCLUSION

All objections and rejections having been addressed, the Applicant requests issuance of a notice of allowance indicating the allowability of all pending claims. If anything further is necessary to place the application in condition for allowance, the Applicant requests that the Examiner contact the Applicant's undersigned representative at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP LLP



CARLO M. COTRONE
Reg. No. 48715
Tel. No. (703) 905-2041
Fax No. (703) 905-2500

CMC/KG

Date: June 1, 2004
P.O. Box 10500
McLean, VA 22102
(703) 905-2000